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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 PATRICK MCALLISTER,

12 Defendant.

CASE NO. CR13-5464 RBL

ORDER ON MOTION FOR
RECONSIDERATION

13 On March 3, 2017, this Court issued an Order on Review of Refusal to Recuse in the
14 above-entitled matter, upholding the presiding judge's refusal to recuse himself at Defendant's
15 request. Dkt. #83. On March 27, 2017, Defendant filed a Motion to Reconsider Refusal. Dkt.
16 #84. Upon review of the motion and accompanying exhibits, the Court rules as follows:

17 IT IS ORDERED that the motion is DENIED.

18 Motions for reconsideration in this District are regulated by Local Criminal Rule
19 12(b)(10). Defendant's motion fails under the requirements of this rule. LCrR 12(b)(10)(A)
20 states that "[t]he court will ordinarily deny such motions in the absence of a showing of manifest
21 error in the prior ruling or a showing of new facts or legal authority which could not have been
22 brought to its attention earlier with reasonable diligence." Defendant does not argue that there
23 was manifest error in the Court's prior denial of his motion.
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1 He does, however, present new evidence and argument based on that evidence. The
2 evidence consists primarily of (1) the Declaration of Philip D. Welch, M.D. (Dkt. #84 at 7) and
3 (2) correspondence from the Washington State Court of Appeals indicating that his personal
4 restraint petition will be “referred to a panel and set on the next available calendar.” (*id.* at 21.)
5 The doctor’s declaration is dated February 17, 2016; the Order Referring Petition to Panel was
6 issued on February 9, 2017. Defendant presents no facts as to why this evidence “could not have
7 been brought to [the Court’s] attention earlier with reasonable diligence.”

8 Finally, and most fatally, the evidence is completely irrelevant to the issue which
9 Defendant attempted to raise in moving for recusal; namely, that Judge Leighton was biased
10 against him. What Defendant now appears to be arguing, by virtue of this latest evidence, is that
11 he was innocent of the criminal violations of which he was convicted in state court and will be
12 permitted to make that argument to a state appellate court. Whether or not that is the case, it has
13 nothing to do with whether Judge Leighton should have recused himself from Defendant’s
14 federal criminal matter.

15 Defendant’s motion for reconsideration (Dkt. #84) is not well-taken and is DENIED.

16 The Clerk SHALL provide copies of this order to Defendant and to all counsel of record.

17 Dated this 11 day of April, 2017.

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19 RICARDO S. MARTINEZ
20 CHIEF UNITED STATES DISTRICT JUDGE
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